

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JOHN M. FIFE, CHICAGO VENTURE
PARTNERS, L.P., ILIAD RESEARCH AND
TRADING, L.P., ST. GEORGE
INVESTMENTS LLC, TONAQUINT, INC.,
AND TYPENEX CO-INVESTMENT, LLC,

Defendants.

Civil Action No. 1:20-cv-05227

Honorable Nancy L. Maldonado
Honorable Heather K. McShain

**PLAINTIFF SECURITIES AND EXCHANGE
COMMISSION’S MOTION FOR LEAVE TO FILE UNDER SEAL EXHIBITS B, F, G, I, J,
AND K TO THE SEC’S MEMORANDUM IN SUPPORT OF ITS AMENDED MOTION
TO COMPEL PRODUCTION OF DOCUMENTS RESPONSIVE TO THE SEC’S JUNE
2023 SECOND SET OF DOCUMENT REQUESTS**

Eric M. Phillips
Christopher H. White
United States Securities and Exchange
Commission
175 West Jackson Boulevard, Suite 1450
Chicago, Illinois 60604

Plaintiff United States Securities and Exchange Commission (“SEC”) respectfully moves this Court to file under seal Exhibits B, F, G, I, J, and K to the SEC’s Memorandum in Support of Its Amended Motion to Compel Production of Documents Responsive to the SEC’s June 2023 Second Set of Document Requests (“Memorandum in Support”), filed contemporaneously herewith. In support of the Motion to Seal, the SEC states as follows:

1. On August 9, 2022, the SEC and Defendants John M. Fife (“Fife”) and his entity co-Defendants (together, with Fife, “Defendants”) entered into a Confidentiality Stipulation in this case.

2. The Confidentiality Stipulation permits any party to designate as “Confidential:” (a) proprietary business information, including, but not limited to, trade secrets and other commercially sensitive information, not previously publicly disclosed; (b) information relating to ownership or control of any non-public company not previously publicly disclosed; (c) financial information (including without limitation profitability reports or estimates, percentage fees, design fees, royalty rates, minimum guarantee payments, sales reports, and sale margins) not previously publicly disclosed; (d) information relating to business plans, product-development information, contract terms, negotiation of contract terms, or marketing plans not previously publicly disclosed; or (e) any information of a personal or intimate nature regarding any individual.

3. Local Rule 26.2(b) provides that “[t]he court may for good cause shown enter an order directing that one or more documents be filed under seal.” N.D. Ill. L.R. 26.2(b).

4. Courts find good cause to file “[h]ighly confidential commercial information” under seal, particularly where “disclosure of the confidential information therein would harm [a

company's] business while giving its competitors an unfair advantage.” *FTC v. OSF Healthcare Sys.*, 2012 WL 1144620, at *4 (N.D. Ill. Apr. 5, 2012).

5. The SEC derived Exhibit B to the Memorandum in Support from a spreadsheet that Defendants produced in discovery. When Defendants produced the spreadsheet, they designated it as “Confidential” under the parties’ Confidentiality Stipulation. Exhibit B is a modified spreadsheet reflecting financial information of Fife-owned entities.

6. The SEC derived Exhibit F to the Memorandum in Support from a spreadsheet that Defendants produced during the SEC’s pre-litigation investigation in April 2020. During this litigation, Defendants did not designate this spreadsheet as “Confidential” under the parties’ Confidentiality Stipulation. However, during this litigation, Defendants have designated as “Confidential” a modified version of this spreadsheet that Defendants produced as to certain transactions. Exhibit F contains transactions tabs from the spreadsheet that Defendants produced during the SEC’s pre-litigation investigation in April 2020. These transaction tabs reflect financial information of Fife-owned entities.

7. Exhibit G to the Memorandum in Support is a sample Quickbooks report that Defendants produced during this litigation. When Defendants produced this document, they designated it as “Confidential” under the parties’ Confidentiality Stipulation. Exhibit G reflects financial information of a Fife-owned entity.

8. Exhibit I to the Memorandum in Support is a sample conversion notice that Defendants produced during this litigation. When Defendants produced this document, they designated it as “Confidential” under the parties’ Confidentiality Stipulation. Exhibit I reflects financial information of a Fife-owned entity.

9. Exhibit J to the Memorandum in Support is a sample Google Drive sheet that Defendants produced during this litigation. When Defendants produced this document, they designated it as “Confidential” under the parties’ Confidentiality Stipulation. Exhibit J reflects financial information of a Fife-owned entity.

10. Exhibit K to the Memorandum in Support is Defendants’ responses and objections to the SEC’s second set of interrogatories. Defendants’ responses to the SEC’s second set of interrogatories contain an attachment that Defendants designated it as “Confidential” under the parties’ Confidentiality Stipulation. The attachment reflects financial information of Fife-owned entities.

11. In light of Defendants’ designation of the above-referenced exhibits as “Confidential” under the parties’ Confidentiality Stipulation, and/or Defendants’ designation of other versions of the above-referenced exhibits as “Confidential” under the parties’ Confidentiality Stipulation, and the fact that these documents reflect financial information of the Defendants claimed by the Defendants to be sensitive, good cause exists for keeping them under seal.

WHEREFORE, the SEC respectfully requests that the Court grant leave to seal Exhibits B, F, G, I, J, and K to the SEC’s Memorandum in Support, filed contemporaneously herewith, and grant such other and further relief as this Court deems just.

Dated: October 2, 2023

Respectfully submitted,

**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION**

/s/ Eric M. Phillips

By: One of Its Attorneys

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on October 2, 2023, he caused the foregoing document to be electronically filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the Court's CM/ECF system, which shall send notification of such filing to the following counsel of record:

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